IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ASSET GUARD PRODUCTS INC., D.B.A. FALCON TECHNOLOGIES AND SERVICES, INC.,	)	
Plaintiff,	)	CIVIL ACTION NO. _____________
v.	)	JURY TRIAL DEMANDED
SENTINEL CONTAINMENT, INC. Defendant.	)	

COMPLAINT FOR PATENT INFRINGEMENT

Asset Guard Products Inc., d.b.a. Falcon Technologies and Services, Inc. ("Falcon"), files this Complaint against Sentinel Manufacturing, Inc. ("Sentinel") for infringement of United States Patent No. 9,410,302 (the "'302 Patent").

THE PARTIES

1. Plaintiff Falcon is a Delaware corporation with a principal place of business at 575 North Dairy Ashford Road, Suite 300, Houston, Texas 77079.

2. Falcon is a fully-owned subsidiary of CARBO Ceramics Inc.

3. Falcon and CARBO Ceramics Inc. sell and market products in this District, including tank pads covered by one or more claims of the '302 Patent.

4. Upon information and belief, Defendant Sentinel Manufacturing, Inc. is an Arkansas corporation having a principal place of business located 3711 County Rd 1671 Knoxville, AR 72845.

5. Upon information and belief, Sentinel sells and markets tank pads and other products in this District, including the tank pads described and depicted on Sentinel' website at <https://www.sentinel-manufacturing.com/tank-pads>.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of this action, and over Falcon and Sentinel, under 28 U.S.C. §§ 1331 and 1338.

7. Venue is proper in this Court under 28 U.S.C. §§ 1391(b) and/or 1400(b).

8. Upon information and belief, Sentinel is currently registered as a foreign for-profit corporation with the Texas Secretary of State. A true and correct copy of Sentinel's Registration as a foreign for-profit corporation with the Texas Secretary of State and Franchise Tax Account Status is attached to this Complaint as Exhibit A. Upon information and belief, Sentinel does business in the State of Texas and this Court's district and/or places goods and services in the stream of interstate commerce, knowing that its goods and/or services will arrive in the State of Texas and in this Court's district. Upon information and belief, Sentinel has committed the tort of patent infringement within the State of Texas and this Court's district. Venue and jurisdiction is therefore proper.

FALCON AND THE '302 PATENT

9. The '302 Patent is entitled "Tank Base" and was issued by the U.S. Patent and Trademark Office on August 9, 2016.

10. A true and correct copy of the '302 Patent is attached to this Complaint as Exhibit B.

11. The '302 Patent and all claims thereof are presumed valid under 35 U.S.C. § 282.

12. Falcon is the owner by assignment of all rights, title, and interests in and to the '302 Patent, including the rights to file suit against infringers and to recover damages from infringers.

13. Falcon makes and sells tank bases covered by one or more claims of the ‘302 Patent.

14. Falcon has complied with the marking and notice provisions of 35 U.S.C. § 287.

SENTINEL’ WILLFUL INFRINGEMENT OF THE ‘302 PATENT

15. Sentinel makes, sells, and offers to sell tank pads and kits for above-ground storage tank support, including the tank pads described and depicted on Sentinel’ website at <https://www.sentinel-manufacturing.com/tank-pads>.

16. Upon information and belief, Sentinel has sold and offered to sell tank pads and kits for above-ground storage tank support in this District, including the tank pads described and depicted on Sentinel ’ website at <https://www.sentinel-manufacturing.com/tank-pads>.

17. Sentinel has infringed and continues to infringe one or more claims of the ‘302 Patent under 35 U.S.C. § 271(a) by making, using, selling, and/or offering to sell the aforementioned tank pads and kits.

18. Sentinel has actual knowledge of the ‘302 Patent and its claims, yet Sentinel continues to infringe the ‘302 Patent.

19. The claims of the ‘302 Patent recite, among other limitations, encapsulated substrates that have: (a) first and second parts; and (b) first and second elastomers encapsulating the parts. The claims of the ‘302 Patent also recites that the respective thicknesses of the first and second parts are sized to provide the load-bearing support for the above-ground storage tank.

20. In a letter dated September 21, 2016 (the “Falcon Letter”), Chris Douglas, patent counsel for Falcon, advised Sentinel that Falcon was the owner of the ‘302 Patent, and provided a copy of the patent to Sentinel.

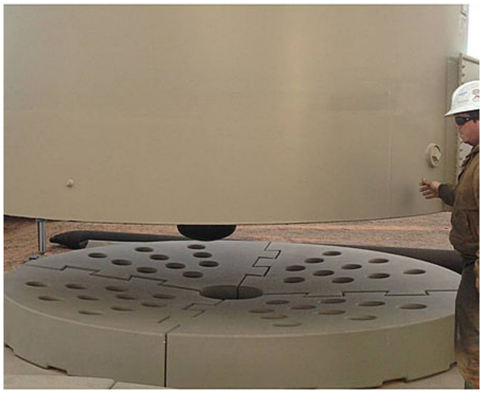
21. In a reply letter dated October 27, 2016, Sentinel’s legal representative indicated “My client's current tank pad product does include interlocking sections (parts). These sections are

partially coated with polyurea, but the coating does not cover the entirety of the pad sections. Thus the sections are not 'encapsulated' as required by the claims of the '302 patent. Therefore, while we appreciate that you brought this patent to our attention, it is our view that no change in the current tank pad product is dictated by the '302 patent." A copy of the Sentinel Reply Letter is attached to this Complaint as Exhibit C.

22. Contrary to the representations in the Sentinel Reply Letter, the Sentinel website, <https://www.sentinel-manufacturing.com/tank-pads> illustrates that Sentinel manufactures at least some accused tank pads having first and second parts that are encapsulated in elastomers. The Sentinel website also provides further technical details on the accused tank pads attached hereto as Exhibits D and E. Such tank pads would literally meet the aforementioned claim limitation requiring first and second encapsulated substrates, where the second encapsulated substrate is positioned adjacent to the first encapsulated substrate.

23. The Sentinel website, <https://www.sentinel-manufacturing.com/tank-pads> illustrates that the Sentinel tank pads provide a first part having a first thickness sized to provide the load-bearing support for the above-ground storage tank, and a second part having a second thickness sized to provide the load-bearing support for the above-ground storage tank.

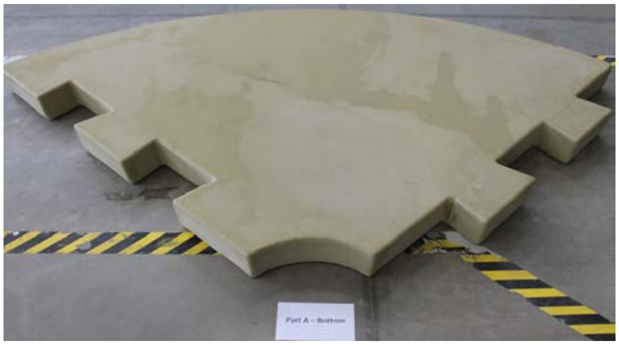
24. The aforementioned Sentinel website page includes photographs of a tank pad that provides load-bearing support for the tank. The photographs from Sentinel's web page are reproduced below:

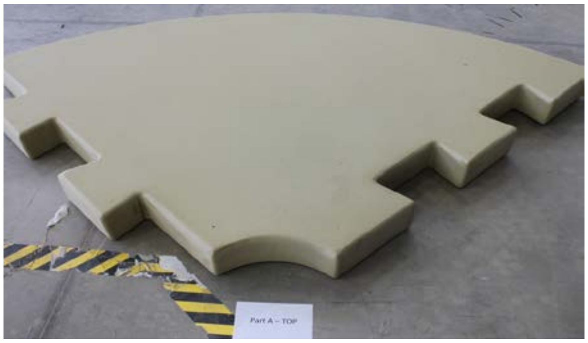


The website <https://media.wix.com/ugd/6c4232_a2f546b1a04d4561986fd26f99618a55.pdf> also provides information indicating “Sentinel's line of interlocking tank stands are composed of a chemically resistant urethane foam core … Sentinel's foam is specially designed for filling voids and applications where superior load bearing properties are required.”

25. Photographs of a tank pad sold by Sentinel are reproduced below:

Part A - Center





COUNT I: INFRINGEMENT OF THE '302 PATENT

26. Falcon incorporates the preceding paragraphs 1 through 23 herein by reference.

27. Sentinel has infringed and continues to infringe one or more claims of the '302 Patent under 35 U.S.C. § 271(a) by making, using, selling, and offering to sell tank pads and kits for above-ground storage tank support.

28. Sentinel has infringed and continues to infringes the '302 Patent willfully and with full knowledge of the '302 Patent.

29. Sentinel' infringement has caused and is causing irreparable harm and monetary damage to Falcon and will continue to do so until and unless Sentinel is enjoined and restrained by this Court.

PRAYER FOR RELIEF

Falcon respectfully requests that the Court:

(a) Enter judgment that Sentinel infringes and has infringed one or more claims of the '302 Patent;

(b) Enjoin Sentinel, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Sentinel who receive notice from further infringement of the '302 Patent;

(c) Award Falcon damages resulting from Sentinel' infringement in an amount not less than a reasonable royalty under 35 U.S.C. § 284;

(d) Enter judgment that Sentinel' infringement is and has been willful;

(e) Treble or otherwise enhance the damages award to Falcon under 35 U.S.C. § 284;

(f) Enter judgment that this is an exceptional case and award to Falcon its costs and reasonable attorney's fees under 35 U.S.C. § 285;

(g) Award Falcon pre-judgment and post-judgment interest and costs; and

(h) Award Falcon such further relief to which the Court finds Falcon entitled under law or equity.

DEMAND FOR JURY TRIAL

Falcon hereby respectfully demands a jury trial of all issues so triable.

Dated: March 29, 2017.

Respectfully submitted,

By: /s/ Tom Van Arsdel

WINSTEAD PC
600 Travis
Suite 1100
Houston, Texas 77002
Phone: (713) 650-2728
Fax: (713) 650-2400
Email: tvanarsdel@winstead.com

Robert C. Shaddox
WINSTEAD PC
600 Travis
Suite 1100
Houston, Texas 77002
Phone: (713) 650-2764
Fax: (713) 650-2400
Email: rshaddox@winstead.com

Attorneys for Asset Guard Products Inc., d.b.a. Falcon Technologies and Services, Inc.